

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

OHIO NATIONAL LIFE ASSURANCE
CORPORATION,

Plaintiff

v.

TRICIA JEAN MURPHY, LYNN ANN
POWERS, MARK ASHLEY WOOD, PENNY
JEAN WOOD, and SANDRA LEE WOOD

Defendants

CIVIL ACTION NO.
04-40207/FDS

**SANDRA LEE WOOD'S OPPOSITION TO MOTION FOR JUDGMENT ON THE
PLEADINGS AND ATTORNEY FEES**

The defendant, Sandra Lee Wood, ("Sandra Wood") asks this Honorable Court to deny Ohio National Life Assurance Corporation's ("Ohio National") award of attorney fees and costs. As discussed in the accompanying memorandum, Sandra Wood opposes the motion for the following reasons:

1. The determination of conflicting claims of beneficiaries is an ordinary cost of doing business for an insurance company which should not be transferred to the defendants by invoking interpleader. Fidelity Bank v. Commonwealth Marine & General Assurance Co., 592 F. Supp. 513, 525 (D. Pa., 1984); Mutual of Omaha Insurance Co. v. Dolby, 531 F. Supp. 511, 516 (E.D.Pa.1982); Companion Life Ins. Co. v. Schaffer, 442 F. Supp. 826 (D.N.Y., 1977); Travelers Indemnity Company v. Israel, 354 F.2d 488, 490 (2d Cir. 1965); Fidelity &

Deposit Co. of Maryland v. A to Z Equipment Corp., 258 F. Supp.
862, 863 (E.D.N.Y. 1966).

2. The requested attorney fees by Ohio National are unreasonable under the circumstances.
3. The motion is improper under Federal Rules of Procedure 12(c) as it asks the court to consider information outside the pleadings.
4. The motion is premature as judgment has not been entered, and citing the judgment is a prerequisite for a motion for attorney fees under Federal Rules of Procedure 54(d)(2)(b).

Sandra Lee Wood,
By her attorney,

/s/ Bobby Hazelton
Bobby Hazelton (BBO# 635446)
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Dated: February 18, 2005